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Appl. No. : 09/823,833
Filed : March 30, 2001

REMARKS

This is in response to the Office Action mailed December 18, 2002. By this Preliminary Amendment, Applicants have canceled pending Claims 1-4 and 6-36 and have presented new Claims 37-49.

Independent Claim 37

This claim is directed to a method of providing operating code to a peripheral device of a gaming machine. In accordance with the method, operation of a gaming machine having a gaming machine controller configured to present at one or more times, via the use of one or more peripheral devices associated with said gaming machine, a game for play by a player, is initiated. Once operation of the gaming machine is initiated, a signal is transmitted from a peripheral device to the gaming machine controller, causing the gaming machine controller to provide control code to the peripheral device for controlling the operation the peripheral device as used at one or more times to facilitate the presentation of the game. The control code is transmitted to the peripheral device in response to the signal, the control code is stored in a memory of the peripheral device, and the control code is executed with a peripheral device controller of the peripheral device to enable the operation of the peripheral device.

As the Examiner knows, in order for a prior art reference to anticipate in terms of 35 U.S.C. § 102, **every element of the claimed invention must identically shown in a single reference, and the elements must be arranged as in the claim under review.** In re Bond, 910 F.2d 831, 15 U.S.P.Q.2d 1566 (Fed. Cir. 1990).

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In the previous Action, the Examiner cited U.S. Patent No. 5,702,304 to Acres et al. as a 35 U.S.C. § 102 reference against most of the pending claims. The Examiner asserted in the Action that "Acres teaches code transmission between a DCN and a game device controller." The Examiner further noted that "[w]ith respect to Applicant's invention, the DCN servers as the device controller and the game machine as a peripheral device." Page 6, Office Action.

Applicants assert that the fact that this interpretation or application of Acres is required demonstrates that it did not teach, as is required for a Section 102 rejection, every element of the claim under review. Applicants have, to aid in the understanding of the claimed invention, presented new claims.

Claim 37 requires communications between a controller of a gaming machine configured to present a game and a peripheral device of that gaming machine. Clearly, Acres does not teach such a method, as the Examiner admits that Acres at most teaches communications between a DCN and a gaming machine. In this configuration, however, the DCN can not be construed to be the gaming machine as claimed as the Examiner suggests, since the DCN of Acres is a communication node and is not configured to present a game.

It is a simple fact that Acres teaches only a network communication configuration where reconfiguration commands which originate with a floor controller are routed to a gaming machine via a communication controller (i.e., DCN). Acres does not teach or suggest providing control code to a peripheral of a gaming device itself.

Applicant agrees with the Examiner that Acres does teach sending a signal or information between two devices. However, the similarities end at that point. In Acres, a DCN receives a

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reconfiguration command from a floor controller and sends the reconfiguration command to a gaming device. The reconfiguration command causes the gaming device to implement a particular existing pay table configuration.

On the other hand, in accordance with the invention, control code is provided from a controller of a gaming machine to a peripheral device of that gaming machine. This control code is not a reconfiguration command, but code which is executed to enable operation of the peripheral device. This limitation is clearly delineated in the claim and is not met by Acres.

Applicants assert that Acres clearly can not apply as a Section 102 reference in light of the fact it does not teach each and every limitation of the claim as arranged. Moreover, Applicants assert that Acres does not render the claimed invention obvious. As detailed above, Acres teaches an invention which is fundamentally different than that claimed. Acres teaches a scheme for routing reconfiguration commands from a floor controller to gaming devices on a network through corresponding node controllers or DCN. This is fundamentally different than a scheme for providing operating code to a peripheral device of a particular gaming machine.

Independent Claim 46

New independent Claim 46 is directed to a gaming machine. This claim is believed to be allowable for similar reasons to Claim 37 as described above.

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Dependent Claims 38-45 and 47-49

These claims are believed to be allowable for at least the reason that they depend from an allowable independent claim. These claims are also believed to define independently allowable subject-matter for various reasons.

Claim 38

Applicant asserts that the prior art, including Acres, does not teach or suggest providing a peripheral device of a gaming machine with minimum resident code permitting the peripheral device to signal for control code to enable operation of itself. As detailed above, Acres does not teach or suggest a system including a gaming device and associated peripheral as claimed, but use of a DCN to route communications from a floor controller to a gaming machine. In addition, however, even if the gaming device of Acres were construed to be a peripheral as the Examiner asserts, the gaming device of Acres includes all control code (not just a minimum set necessary to call for a download of the necessary code to enable operation) and what part of the comprehensive control code is utilized is determined by using reconfiguration commands.

Claims 39 and 40

These claims are directed at methods where the peripheral device is re-set to remove previously existing control code. The Examiner asserted in the last Action that this feature would be obvious in view of the fact that Acres teaches an initiation event for the DCNs. The Examiner asserts that it is generally known for networked devices to send signals on power up.

Once again, it is important to consider the fundamental differences between Acres and the present invention. In Acres, the DCNs are indeed network nodes and the initiation/signal sending

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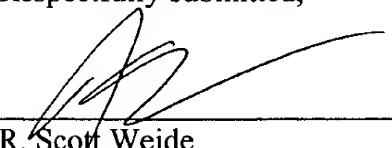
is part of configuring the network. However, the invention claimed deals with peripheral devices of a gaming machine. These peripheral devices are not part of a network, but are components of a gaming machine. There is no teaching or suggestion of a desire to reset the memory of a peripheral device and send a signal to cause control code download. In fact, the art generally teaches away from a configuration in a gaming machine where the code is erased and re-loaded, as this would normally be considered time consuming. For example, it is noted that in Acres while the DCN, which is controlled by a networked node, powers up and provides signals, the memory of the gaming device itself is not reset/re-loaded. To the contrary, in Acres, the gaming device is loaded with a comprehensive set of resident code to permit multiple enabled configurations based upon reconfiguration commands.

Summary

Applicants asserts that Claims 37-49 are in a condition for allowance and respectfully request a notice as to the same. If any matters remain outstanding, the Examiner is invited to contact the undersigned by telephone.

Respectfully submitted,

Dated: March 18, 2003 By:


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